OIPE IAP40
NOV 30 2005
PATENT & TRADEMARK OFFICE

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Docket No.: 826.1587

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

TOSHIKI MORI

Serial No. 09/487,265 Group Art Unit: 3623

Confirmation No. 2955

Filed: January 19, 2000 Examiner: A. K. Robinson-Boyce

For: MESSAGE PROCESSING APPARATUS, MESSAGE PROCESSING SYSTEM, MESSAGE MANAGING METHOD, AND STORING MEDIUM STORING MESSAGE MANAGEMENT PROGRAM

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Notice mailed November 25, 2005 in response to the Office Action mailed Appeal Brief filed September 12, 2005. Reconsideration of the Response is respectfully requested.

OIPE IAP40
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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APPEAL BRIEF

Mail Stop **Appeal Brief-Patents**
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the final Office Action in the above identified application and pursuant to the Notice of Appeal filed June 13, 2005, applicants submit this Brief with the fee of $500.00 set forth by 1.17(c). A Petition for extension of time and the required fee of $ 120.00 requesting a one month extension has been concurrently filed herewith extending the period for filing this brief to September 13, 2005.

(I) Real Party In Interest

The real party in interest in this appeal is the assignee, Fujitsu Limited.

(II) Related Appeals and Interferences

The undersigned attorney, the appellant and the assignee know of no related appeals or interferences which would be directly affected by or directly affect or have a bearing on the Board's decision in this appeal.

(III) Status of Claims

Claims 1-4, 6-8, 15-18, 21-23 and 29 are currently pending, claims 5, 9-14, 19, 20 and 24-28 have been cancelled, claims 1-4, 6-8, 15-18, 21-23 and 29 stand finally rejected and claims 1-4, 6-8, 15-18, 21-23 and 29 are appealed.

(IV) Status of Amendments

No amendments have been filed subsequent to the final rejection.

(V) Summary of Claimed Subject Matter

The present invention is directed to solving a problem managers have associated with scheduling workers who do tasks of a job (page 2, line 6+). Managers now days cannot always command an employee to do a task at a specified time and within a specified time period because they may be working on other tasks. As a result, managers must often seek feedback from the workers. The feedback sought needs to be easy for the worker to provide. Workers on a project are also often scattered among various locations. In addition when managers are involved with projects that have a number of tasks and a number of workers, keeping up with approved task completion dates associated with the workers in such a fluid situation is difficult. And workers sometimes change when they can get to and accomplish a task and this ads to the problem.

The present invention addresses this problem by generating messages that are sent to the workers who have been assigned the jobs (Fig. 6, page 13, line 18+). The "message" is a job completion message that seeks feedback from the worker on when (the "date") the job can be finished or an "offer" by the worker as to a "completion date" (Fig. 14, page 24, line 4+, Fig. 16, page 26, line 17+). To make this easy on the worker (or the "receiver" of the message), the message includes an "entry space" for the worker to provide "completion date offer". The generated messages are transmitted ("transmitting") to the workers (Fig. 8, page 16, line 11+) and the responses or "completion date offers" in the space provided are received ("receiving).

The offered completion dates are then displayed (Fig. 16, page 26, line 17+) to the manager (or "transmitter of the message") and can include the "title" of the message. The manager can then easily review the offered completion dates and make a decision as to whether to approve or reject ("approved or rejected status") the offered date (page 27, line 9+). This "decision result" is also displayed with ("with respect to") the completion date along with the name of the worker (or "receiver"). To assist the manger in reviewing the dates and deciding whether to approve or reject, the offered dates, names, etc. are displayed in a "an offered term table"(Fig. 17, page 27, line 3+). When the manager sends the message to the worker, the worker can specify (Fig. 14, page 24, line 4+) a different date "in place of the completion date specified in the message" by the manager. When a new offered date is provided by a worker, the "new date offered" is also displayed in this table.

To also assist the manager in getting the tasks or jobs completed, the display displays a ratio (Figs. 13-15, page 22, line 11+). Since what the manager is trying to schedule are people

with respect to jobs, the ratio is a ratio of people, particularly a ratio of "persons who have completed assigned respectively assigned parts of the job" or "persons who have received the message and completed the assigned parts of the job to all the persons who have received the message and have been assigned the parts of the job" or "persons who have completed the respectively assigned parts of the job among all the plurality of receivers of the message doing the job that is associated with the message" (Fig. 13, page 22, line 18+). This ratio can be displayed in a "completion state table" and can be displayed upon "request" or under certain conditions (or upon "fulfilling predetermined conditions") or the display of this ratio can be "mandatory". These predetermined conditions (Fig. 12, page 21, line 13+ & Fog. 15, page 25, line 13+) include when a "specified date" arrives (or is "current") and when the ratio attains a "predetermined value" or on "a day specified" in "advance" by the manager (or "transmitter of the message").

To make it easy on the workers to indicate that a job has been completed, the workers are provided with a "confirmation button" that can be used ("activated") to indicate that the worker "has completed the assigned part of the job" (Fig. 14, page 24, line 4+).

The ratio can be calculated based on the Number count ("counts") of activated buttons (page 23, line 3+).

(VI) Grounds of Rejection To Be Reviewed on Appeal

1. Whether all claims are unpatentable under 35 U.S.C section 103(a) over US Patent 5,907,490 to Oliver (hereinafter "Oliver") in view of the US Patent 6,092,048 to Nakaoka (hereinafter "Nakaoka").

(VII) Argument

A. The Law

Under Graham v. John Deere Co., 383 U.S. 1,148 U.S.P.Q. 459 (1966) the scope and content of the prior art are to be determined, the differences between the prior art and the claims at issue are to be ascertained and the level of skill in the art is to be ascertained. Against this background the obviousness of the subject matter is determined.

The prior art must not only suggest the desirability that the teachings of references be combined but must also suggest the desirability of the modifications in the manner proposed by the Examiner as well as the results to be achieved (see Ex parte Costa, 11 U.S.P.Q. 636 (P.O.Bd.App.1978), ACS Hospital Systems, Inc. v. Montefiore Hospital, 32 F.2d 1572,221 U.S.P.Q. 929(Fed.Cir.1984), In re Gordon, 733 F.2d 900,221 U.S.P.Q. 1125 (Fed.Cir.1984),

Lear Siegler v. Aeroquip Corp., 733 F.2d 881, 221 U.S.P.Q. 1025(Fed.Cir.1984) and Diversitech v. Century Steps, 850 F.2d 675, 7 U.S.P.Q.2d 1315 (Fed.Cir.1988)).

Any reference used to reject a claim must itself be enabling for the subject matter of the invention alleged to be taught (see In re Wilder, 429 F.2d 447, 166 U.S.P.Q. 545 (C.C.P.A. 1970) and In re Collins, 462 F.2d 538, 174 U.S.P.Q. 333 (C.C.P.A. 1972)).

Factors to be considered in determining that claims are not obvious include unexpected results, new features, solution of a different problem and novel properties (see In re Wright, 848 F.2d 1216, 6 U.S.P.Q.2d 1959 (Fed.Cir.1988)).

Hindsight cannot be used in determining the issue of obviousness and the reviewer must view the prior art without reading into that art the teachings of the application or patent (see Kalman v. Kimberly Clark Corp., 713 F.2d 760, 218 U.S.P.Q. 781 (Fed.Cir.1983)).

"One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." In re Fine, 837 F.2d 1071, 1075, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988).

The Examiner is not allowed to pick and chose among individual parts of assorted prior art references but must read the references as a whole and consideration must be given to where the references diverge and teach away from the claimed invention (see Akzo v USITC, 808 F.2d 1471, 1 U.S.P.Q.2d 1241 (Fed.Cir.1986)).

Effect must be given to all claim limitations (see In re Angstadt and Griffin, 537 F.2d 498, 190 U.S.P.Q. 214 (C.C.P.A.1976)). The differences between the claimed invention as a whole and the prior art must be considered. It is error to focus on a core or gist of an invention (see Bausch & Lomb, Inc. v Barnes-Hind/ Hydrocurve, Inc., 796 F.2d 443, 230 U.S.P.Q. 416 (Fed.Cir.1986)). Focusing on the obviousness of substitutions and differences instead of the invention as a whole is legally improper (see Hybritech Inc. v Monoclonal Antibodies, Inc., 802 F.2d 1367, 231 U.S.P.Q. 81(Fed.Cir.1986)). Casting an invention as a combination of old elements leads improperly to an analysis of the invention by parts and not by the whole (see Custom Accessories, Inc. v Jeffery-Allan Industries, Inc., 807 F.2d 955, 1 U.S.P.Q.2d 1196 (Fed.Cir.1986)).

Obviousness cannot be established by combining the teaching of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under section 103, teachings of references can be combined only if there is some suggestion or incentive to do so. (see ACS Hospital Systems, Inc. v. Montefiore Hospital, 221 USPQ 929, 932, 933 (Fed. Cir. 1984))

The fact that the prior art teaches away from an invention is evidence that the invention is not obvious (see Akzo v. USITC,8 08 F.2d 1471, 1 USPQ2d 1241 (Fed.Cir.1986) and In re Graselli, 713 F.2d 731, 218 USPQ 769 (Fed.Cir.1983)).

"We have noted elsewhere, as a "useful general rule," that references that teach away cannot serve to create a prima facie case of obviousness. In re Gurley, 27 F.3d 551, 553, 31 USPQ 2d 1130 (Fed. Cir. 1994). If references taken in combination would produce a "seemingly inoperative device," we have held that such references teach away from the combination and thus cannot serve as predicates for a prima facie case of obviousness. In re Sponnoble, 405 F.2d 578, 587, 160 USPQ 237, 244, 56 C.C.P.A. 823 (1969) (references teach away from combination if combination produces seemingly inoperative device); see also In re Gordon, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984) (inoperable modification teaches away)." (see McGinley v. Franklin Sports Inc., 60 USPQ 2d 1001, 1010 (Fed. Cir. 2001)

B. The Rejection

In the Action, in pertinent part, the Examiner particularly stated:

As per claims 1, 6, 15, 16, 17, 21 29, Oliver discloses:

[An acquisition unit/a first program part for] transmitting the job completion data messages to a plurality of receivers of the group and receiving each completion date offer that is entered by the receivers/an acquisition unit transmitting a hob completion message and receiving a job completion reply from person in a group who have been assigned part of a job and obtaining information indicating whether each of a plurality of receivers of a message, who in a group do a ob associated with the message, has completed an assigned part of the job; (col. 6, lines 34-42, w/co. 7, lines 11-22, where the graphical user interface and touch screen represents the acquisition unit and helps complete EV analysis, col. 3, lines 30-37, where EV analysis helps measure wheat has been accomplished on a project, col. 7, lines 61-62, where the transmission of a job completion message is represented by presentation of initial EV information, which includes percent complete information as shown in col. 8, lines 21-29, also co. 8, line 67 - col. 9, line 4, where the job completing message transmitted is represented by the user clicking on the number on the screen in order to received percent of project complete information, in addition, col. 9, line 4-9 shows the job completion reply since a response about the percent of a project completed is disclosed);

[A control unit/a second program part/the control unit causes the apparatus to display], causing a terminal device of the transmitter apparatus at the transmitter of the message to display the completion date offers of the receivers together with a decision result with respect to the completion date offers of the receivers/a control unit, based on the information obtained by the acquisition unit, causing a terminal apparatus to display information indicating a ration of person who have received the message and completed the assigned parts of the job to all the person who have received the message and have been assigned the parts of the job, (col. 7, lines 5-10 and lines 38-41, where the control unit and the second program part is represented by the EV analyzer program in the computer, col. 8,

lines 21-29, where Oliver discloses the "ratio" through disclosing EV-related information pertaining to the percent complete, w/col. 2, lines 52-56, displays accomplished results to planned results. In Oliver, the "ratio" is disclosed to be the percentage of the project completed based on earned value for the work performed to the total project baseline. In this case, even though the percentage of the project completed is determined through the earned value, the percentage of the project completed is still determined and represents the completed assigned parts of the job. In addition, the total project baseline represents the all assignments in the job. Therefore Oliver's "ratio" is analogous to the "ratio" of the claimed invention, (col. 2, lines 52-56, displaying comparison of accomplished results to planned results).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to disclose the ratio of persons who have completed the respectively assigned parts of the job amongst all of the plurality of receivers of the message doing the job with the motivation of determining which jobs are complete and which jobs are incomplete for assignment purposes.

Oliver does not specifically disclose a message generation unit, but does disclose an indication that a job is complete in col. 8, lines 21-29.

However Nakaoka discloses:

A message generation unit generating a job completion date message to which attached is an entry space of entering a completion date offer indicating a completion date a receiver of a group who has been assigned to the job desires to agree to place in the completion date offer entry space in the message, (col, 1, lines 20-25, represented by the finish date). Nakaoka discloses this limitation in an analogous art for the purpose of showing dates that the job has been completed.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to incorporate a message generation unit generating a job completion date message to which attached is an entry space for entering a completion date offer indicating a completion date a receiver of a group who has been assigned to the job desires to agree to place in the completion date offer entry space in the message with the motivation of giving the user the flexibility to enter a date that the feels that he can complete the job.

(Action, 4/21/2005, pages 2-5)

Generally speaking Oliver is a system for managing the "performance" of a project and, as a result, cares little about actual tasks or the scheduling of tasks. In fact, it appears that the scheduling of tasks is considered by Oliver to be something that happens outside of the Oliver system (see Oliver, col. 1, lines 34-48, col. 1, line 61-col. 2, line 1, col. 3, lines 29-33 and col. 4, lines 41-43 where Oliver determines EV from a baseline that is prepared outside of the Oliver system and the baseline is based on previously scheduled tasks). Nakaoka is a system for managing task support, that is, to provide a worker information "during a task" and, as a result, cares little about task scheduling. The present invention is about something in between these two; it is about task scheduling with the cooperation of the workers.

C. The Claims

The present invention, as recited in the independent claims, is concerned with obtaining offered or proposed dates for completing tasks or jobs ("completion date offer indicating a completion date" - claims 1, 15, 17, 21 and 22). In particular, the completion date proposals or offers are from those who have been assigned the jobs ("a receiver of a group who has been assigned to the job" - claim 1). These job offers are made by those doing the job based on receiving a message that includes a space for entering the offer ("an entry space for entering a completion date offer" - claims 1, 15, 17, 21 and 22). These offers or proposals for completing the jobs are displayed for a manager to review ("display the completion date offers of the receivers" - claims 1, 15, 17, 21 and 22). In particular, the display is "to display in a table form the title of the message, names of a plurality of the receivers, the completion dates entered into the entry spaces" - claim 22. The display also includes "a decision result with respect to the completion date offers of the receivers" (see claims 1, 15, 17, 21 and 22). This display of both the offers and the result allows the transmitter of the original message to easily grasp the complete status of the date completion offers associated with the completion date more clearly.

D. The General Bases For Rejection

The Examiner bases the rejection on an in hindsight comparison of the various versions of the invention to specific disclosure within Oliver and Nakaoka.

As set forth above, on page 4 of the Action, the Examiner acknowledged a particular teaching lack in Oliver and looked to Nakaoka for the teaching. In particular, the Examiner compares:

> a message generation unit generating a job completion date message to which attached is an entry space for entering a completion date offer indicating a completion date a receiver of a group who has been assigned to the job desires to agree to place in the completion date offer entry space in the message;
> (Claim 1)

to the text of Nakaoka at col. 1, lines 20-25. This text relied upon by the Examiner particularly states:

> Specifically, to each user, there is displayed a task entry list having works that should be executed by the user from tasks that the workflow system should support. Therefore, the user can avoid such an accident that the user forgets the user's own work. Also, the user can confirm the number of works that have been piled up so far at this time. Moreover, when the user selects a work from the work list, information necessary for the work determined by the task definition is presented to the user, thereby improving the efficiency of the corresponding work.
> (Nakaoka, col. 1, lines 20-31, inclusive of lines 20-25)

This text discusses a list of tasks provided to a user that the user is to perform. This text says nothing about generating a message, much less one with an entry space for a job completion date offer by the person assigned the job.

The Examiner has failed to make a prima facie case of obviousness. For this reason, the rejection should be reversed.

The Examiner has also compared:

> an acquisition unit transmitting the job completion date messages to a plurality of receivers of the group and receiving each completion date offer that is entered by the receivers;

(Claim 1)

to the text of Oliver at col. 6, lines 34-42, col. 7, lines 11-22, col. 3, lines 30-37, col. 7, lines 61-62, col. 8, lines 21-29, and col. 8, line 67 - col. 9, line 9. This text particularly states:

> Computer 120 includes a display screen 122 which may have a graphical user interface (GUI). Computer 120 may receive input from a touch screen; a pointing device 124, which may be any of a number of devices such as a mouse, a touch pad, a roller ball, or other devices; and may also receive input through keyboard 126. Computer 120 is further programmable and operable to perform EV analysis according to the system and methods of the present invention.

(Oliver, col. 6, lines 34-42)

> An operator interfacing with the computer may then enter a number of different process requests as reflected at block 164. While the specific process flow may be arranged in parallel with different paths being defined by the operator, for convenience in FIGS. 5a and 5b they are presented as a sequential process flow which first begins by determining whether EV-related information has been requested (interrogatory block 166). If additional information has been requested, the additional information is calculated or retrieved and displayed at block 168. The process then returns along path 170 to block 164 where additional process requests may be entered.

(Oliver, col. 7, lines 11-22)

> EV helps to measure objectively what has been accomplished on a project. Note that the earned value is determined by using the baseline effort, schedule status, and an earned value measurement rule, and is independent of actual effort spent. Objective criteria are preferably used to determine the number of completed tasks and, in some instances, may also include credit for started but not yet completed tasks. For example, the following relatively conservative criteria or earned value measurement rules (Table 1) may be used.

(Oliver, col. 3, lines 30-37)

> EV calculations are performed at block 189, and the initial presentation of EV information is made at block 191.

(Oliver, col. 7, lines 61-62)

> As discussed above, once the active schedule or task data is obtained from the project management software, through the object link, information and EV-related information may be determined and displayed as suggested by blocks 160 and 162 (FIG. 5) and blocks 189 and 191 (FIG. 6). This information may include the cost variance, cost variance percent, cost performance index, schedule variance, schedule variance percentage, schedule performance index, percent complete,

percent spent, forecast at completion, to-complete-performance index (forecast), to-complete-performance index (baseline), improvement ratio (forecast), improvement ratio (baseline), variance at completion, and/or independent forecast among other possible calculations.

(Oliver col. 8, lines 21-33, inclusive of lines 21-29)

For example, if an operator desires to learn more about the percent of project complete information the operator may click on that number on the screen at which time the number is analyzed by the EV analyzer to determine the exact response. The response may be something such as:

> percent complete indicates what percentage of the project is complete based on the ratio of earned value (also known as BCWP-Budget Cost of Work Performed) to the total project baseline. At this point in your project, you have delivered ›the specific amount would be inserted here! of earned value in relationship to the ›insert specific amount here! of the total project earned value which was baselined for delivery.

(Oliver, col. 8, line 67 - col. 9, line 9)

This text says nothing about transmitting a job completion message to plural receivers and receiving each completion date offer. Messages are nowhere mentioned in this text. Dates are nowhere mentioned in this text. This text is about an operator interrogating the system for earned value (EV) information. There is no disclosure of transmitting messages to plural receivers. An interrogation by an operator is a request for information from the Oliver analysis system. A message to plural receivers is messages to people who will do a task. And earned value information is not about offers associated with a completion date, but a measure of "the value of the work accomplished" (see Oliver col. 2, lines 8-17). There is just no comparison of a unit that sends and receives date associated messages and something that is interrogated for value.

The present invention is about improving a manager's job of scheduling workers. Oliver is about showing progress in what has been earned.

The Examiner essentially alleges, in hindsight, that a display of an earned value is equivalent to a transmitted message and the operator clicking on an EV number on a screen is equivalent to a received message. Assuming for the sake of argument that this is so (although we do not agree with this assertion of equivalence), how does this involve a completion date or an offer? It does not.

The Examiner has failed to make a prima facie case of obviousness in this comparison. For this additional reason, the rejection should be reversed.

The Examiner has further compared:

> a control unit causing a terminal device of the transmitter apparatus at the transmitter of the message to display the completion date offers of the receivers together with a decision result with respect to the completion date offers of the receivers.

(Claim 1)

to the text of Oliver at col. 7, lines 5-10 and lines 38-41 and col. 8, lines 21-29. This text particularly states:

> The EV analyzer program segment is then initiated as reflected at block 156. Once initiated, the EV analyzer obtains the project data or task data from the project management software as shown at block 158. Current EV information is then calculated by the computer at block 160 and displayed at block 162.
> (Oliver, col. 7, lines 5-10)
>
> At block 184, the current EV information and historical EV information are prepared and graphically displayed on the computer monitor.
> (Oliver, col. 7, lines 38-41)
>
> As discussed above, once the active schedule or task data is obtained from the project management software, through the object link, information and EV-related information may be determined and displayed as suggested by blocks 160 and 162 (FIG. 5) and blocks 189 and 191 (FIG. 6). This information may include the cost variance, cost variance percent, cost performance index, schedule variance, schedule variance percentage, schedule performance index, percent complete, percent spent, forecast at completion, to-complete-performance index (forecast), to-complete-performance index (baseline), improvement ratio (forecast), improvement ratio (baseline), variance at completion, and/or independent forecast among other possible calculations.
> (Oliver col. 8, lines 21-33, inclusive of lines 21-29)

This text says nothing about displaying (plural) completion date offers. The current EV information and historical EV information being displayed in this situation is the graph of hours versus weeks as depicted in Oliver figure 2.

Once again the invention is about helping a manager to schedule workers and the dates when the workers have offered to complete their tasks are displayed. The display of a graph of earned value has nothing to do with dates of task completion.

The Examiner has again failed to make a prima facie case of obviousness in this comparison. For this further reason, the rejection should be reversed.

Claim 1

Independent apparatus claim 1 is submitted to be patentable over the prior art for the several reasons discussed above in The General Bases For Rejection.

In addition, Claim 1 calls for the display to display a decision result "a decision result with respect to the completion date offers of the receivers" which is displayed "together" with the job completion date offers. That is, a decision about whether to accept or reject each of the offers is shown. This contributes to the ability of the manager to manager the workers. Oliver and Nakaoka say nothing about this.

The, in hindsight, Examiner asserts, on page 11 of the Action, that the earned value calculation results are equivalent to the decision result associated with completion date offers. In particular, the Examiner states:

> This scheduling is shown by a Gantt chart and is done in the planning process, and as scheduled, constitutes the baseline for the project. Oliver explains that the baseline represents cost and effort expenditures with respect to time and activities in col. 1, lines 42-44. Since the baseline is derived from the time it takes a person to complete several tasks, and since the baseline also represents both cost and effort expenditures with respect to time and activities, one of ordinary skill in the art would determine that the percent complete ratio in Oliver is directly related to the time it takes a person to complete tasks according to the baseline, which includes both cost and effort expenditures. Therefore, even though the percentage of the project completed is determined through the earned value, this earned value is derived from the time it takes a person to complete several tasks according to a baseline. Therefore Oliver's "ratio" is analogous to the "ratio" of the claimed invention. In addition, Oliver discloses that his invention calculates detailed and makes display readily acessible earned value informtion in col. 2, lines 52-54. In col. 2, lines 55-57, Oliver then goes on to show that the comparison of accoplished results to planned results are derived. This represents the decision result and offers being displayed together since Oliver's results are graphically represented.

(See Action, page 11)

It is submitted that no individual job offer completion dates are associated with the earned value result of Oliver. It is an earned value associated with an entire project and association with individual job offer completion dates made by individual workers is not contemplated or suggested by Oliver. It is submitted that such an assertion of equivalency is not reasonable.

For these additional reasons, reversal of the rejection of claim 1 is requested.

Claim 2

Claim 2, dependent on claim 29, additionally calls for the display showing the "ratio of the persons who have completed respectively assigned parts of the job to be displayed". That is, the manager who is in charge of scheduling workers sees a ratio of workers who have completed a job. On page 11 of the Action, the Examiner asserts, in hindsight, that this is equivalent to a percentage complete of a project that is derived from the earned value that is derived from time to complete task according to a base line. See the exact comments of the Examiner set forth above.

So, apparently we have a suggestion of a suggestion of a suggestion of a suggestion that is being used to assert an equivalency. This, in and of itself is not a reasonable basis for rejection. For this reason, the rejection of claim 2 should be reversed.

Even if the rational raised by the Examiner is justified, the present invention is still not taught. Assume for the sake of discussion that job parts have been assigned to 4 people and that each part takes 10 actual effort hours so that completing all parts would take 40 actual effort hours. Also assume that that two people have completed 50% of their parts and two people have completed 100 percent of their parts. The earned value (EV) or percent complete in accordance with Oliver is EV = (5 hrs. + 5 hrs. + 10 hrs. +10 hrs.) / 40 hrs. = 30/50 = 60%. The ratio according to the present invention would be ratio = 2/4 = 50%. The present invention and Oliver provide very different measures of project status. The ratio of the present invention allows job parts completion progress by workers status to be measured, something that Oliver does not provide or even suggest.

Claim 2 also calls for the ratio to be "displayed together with a title of the message in response to one of a display request of a user and on fulfilling predetermined conditions. That is, the title of the job completion date message associated the worker is displayed along with the ratio when requested and when predetermined conditions are fulfilled. The prior art says nothing about displaying such a job completion date message title or when doing anything when predetermined conditions are fulfilled. The Examiner points to a task title as equivalent to this. However, a task title is not a message about job completion sent to a worker but merely a name for a task.

Nakaoka adds nothing to Oliver with respect to the above discussed features of this claim.

For these additional reasons, reversal of the rejection of claim 2 is requested.

Claim 3

Claim 3, dependent on claim 29, additionally calls for displaying "a completion state table comprising information indicating the ratio of the persons who have completed the respectively assigned parts of the job among all the plurality of receivers of the message doing the job and the title of the message." As discussed above with respect to claim 2 no ratio as in this claim is taught or suggested by the prior art and for the above-discussed reasons, the rejection should be reversed.

Further, the Examiner points to Oliver at col. 8, lines 21-29 for the features of this claim. Nowhere does the text of Oliver noted by the Examiner (see the text set forth above) or anywhere else in Oliver is the display of a table mentioned, much less the display of a completion state table. The lack of such a table (or suggestion of such) in Oliver is natural since Oliver is not about tasks of workers but about the state of the total project.

The Examiner, on page 7 of the Action, equates the chart of figure 1 of Oliver with the these features of claim 3. The chart of figure 1 is a Gantt chart.

Nakaoka adds nothing to Oliver with respect to the above discussed features of this claim.

For this additional reason, reversal of the rejection of claim 3 is requested.

Claim 4

Claim 4, dependent on claim 29, additionally calls for allowing the workers (receivers of the offer messages) to activate a "confirmation button" to indicate "that the receiver has completed the assigned part of the job" and the system "counts" the "activated" confirmation button to indicate "the ratio of the persons having completed the assigned parts of the job". As discussed above there is no such ratio taught or suggested by Oliver. For this reason, reversal of the rejection is requested.

Further, no such buttons are provided and no such counting of activated buttons are taught or suggested by the prior art. The Examiner points to the Oliver text at col. 8, lines 21-29, set forth above, for this provision and button activation counting feature. This text noted by the Examiner says noting about buttons or button activation counting, much less for determining a ratio. For this additional reason, reversal of the rejection is requested.

Further, a ratio based on button activation counts is nothing like the percent complete based on worked hours (or earned value) in Oliver.

Nakaoka adds nothing to Oliver with respect to the above discussed features of this claim.

For this additional reason, reversal of the rejection is requested.

Claim 6

Claim 6, dependent on claim 29, additionally calls for the display of the ratio to be "mandatory" and to be displayed on the terminal of the transmitter of the message or the receiver of the message. No such display in two places is contemplated by the prior art. For this reason, reversal of the rejection is requested.

This claim also calls for a ratio that is one of "the persons who have completed the respectively assigned parts of the job among all the plurality of receivers of the message doing the job that is associated with the message". That is, the ratio is one of task part completion versus message reception. Nothing in the prior art teaches or suggests this. Oliver says

nothing about sending messages to plural receivers much less using them in a ratio, much less a ratio like this.

Nakaoka adds nothing to Oliver with respect to the above discussed features of this claim.

For this reason, reversal of the rejection claim 6 is requested.

Claim 7

Claim 7, dependent on claim 29, further calls for displaying the ratio when "a specified date" and when the ratio reaches a "preassigned value". The Examiner again uses the Oliver text at col. 8, lines 21-29, set forth above, as an alleged teaching of this feature. This text says nothing about the conditions of this claim. And the Examiner has not even alleged that this text says anything relevant to these conditions.

Nakaoka adds nothing to Oliver with respect to the above discussed features of this claim.

For this reason, reversal of the rejection claim 7 is requested.

Claim 8

Claim 8, dependent on claim 29, further calls for the display of the ratio to be "on a day specified by a transmitter of the message in advance". The Examiner again uses the Oliver text at col. 8, lines 21-29, set forth above, as an alleged teaching of this feature. This text says nothing about this condition for display of the ratio of this claim. And the Examiner has not even alleged that this text says anything relevant to these conditions.

Nakaoka adds nothing to Oliver with respect to the above discussed features of this claim.

For this reason, reversal of the rejection claim 8 is requested.

Claim 15

Independent system claim 15 is submitted to be patentable over the prior art for the several reasons discussed above in The General Bases For Rejection.

In addition, claim 15 calls for the display of the completion date offers and the decision result to be by one of plural terminals. No discussion is provided in Oliver that talks about or suggests having plural terminals available to display such.

Nakaoka adds nothing to Oliver with respect to the above discussed features of this claim.

For this additional reason, reversal of the rejection claim 15 is requested.

Claim 16

Claim 16, dependent on claim 15, additionally calls for the display of "an offered term table comprising the name of a receiver, the offered new date term of a receiver, an approved or rejected status of the transmitter for the offer". As discussed above, Oliver does not teach or suggest the display of a table much less one for offered terms. For this reason, reversal of the rejection claim 16 is requested.

This claim calls for the display of the names of workers (receivers of a message for a job completion date) in the table. Oliver does not teach or suggest such as Oliver is concerned with project status and not worker scheduling. For this additional reason, reversal of the rejection claim 16 is requested.

This claim also calls for the new date of a term for completion of a job to be displayed. Again, Oliver does not teach or suggest such, as Oliver is not concerned with such details. For this further reason, reversal of the rejection claim 16 is requested.

This claim further calls for the approved or rejected status for the job completion date offer to be displayed. Oliver does not teach or suggest such, as Oliver is not concerned with such details.

Nakaoka adds nothing to Oliver with respect to the above discussed features of this claim.

For this reason, reversal of the rejection claim 16 is requested.

Claim 17

Independent method claim 17 is submitted to be patentable over the prior art for the several reasons discussed above in The General Bases For Rejection.

Claim 18

Claim 18, dependent on claim 17, is submitted to be patentable for the reasons discussed above with respect to claim 16.

Claim 21

Independent storage medium claim 21 is submitted to be patentable over the prior art for the several reasons discussed above in The General Bases For Rejection.

Claim 22

Independent apparatus claim 22 is submitted to be patentable over the prior art for the several reasons discussed above in The General Bases For Rejection.

Claim 22 calls for the message that is sent to the workers to specify a target or desired completion date ("completion date specified in the message")

In addition, claim 22 calls for the display of a table that displays the offered completion dates and the decision result associated with the completion date offers. For the reasons discussed above with respect to claim 3. withdrawal of the rejection is requested.

Claim 22 also calls for listing the "names" of the workers ("receivers" of the completion date messages) who are being scheduled for the tasks. Oliver does not teach or suggest showing a table of worker names for workers who have made offers of completion dates. Such a table is not contemplated by Oliver as Oliver is about project level issues not worker task level issues.

Nakaoka adds nothing to Oliver with respect to the above discussed features of this claim.

For this additional reason, reversal of the rejection claim 22 is requested.

Claim 23

Claim 23, dependent on claim 22, additionally calls for features discussed above with respect to claim 16 and is submitted to be patentable for the reasons discussed above.

Claim 29, dependent on claim 1, additionally calls for obtaining information about completion of "assigned" parts of a job which is then displayed. Oliver does not teach or suggest such. For this additional reason, reversal of the rejection claim 29 is requested.

Claim 29 also calls for a ratio that is one of "a ratio of persons who have received the message and completed the assigned parts of the job to all the persons who have received the message and have been assigned the parts of the job". That is, the ratio is one of task part completion versus message reception for assigned parts of a job. Nothing in the prior art teaches or suggests this. Oliver says nothing about sending messages to plural receivers much less using them in a ratio such as this.

Nakaoka adds nothing to Oliver with respect to the above discussed features of this claim.

For this reason, reversal of the rejection claim 29 is requested.

E. The References Are Not Combinable

Oliver does not specifically disclose a message generation unit, as acknowledged at page 4 of the final Office Action. The Office Action seeks to compensate for this deficiency of Oliver by combining Oliver with Nakaoka, saying, in part, "but does disclose an indication that a job is complete." This is submitted to be incorrect. Oliver shows no indication that a job is complete, either, contrary to the assertion in the Office Action.

Oliver, rather, describes at column 8, lines 21-29,

> As discussed above, once the active schedule or task data is obtained from the project management software, through the object link, information and EV-related information may be determined and displayed as suggested by blocks 160 and 162 (FIG. 5) and blocks 189 and 191 (FIG. 6). This information may include the cost variance, cost variance percent, cost performance index, schedule variance, schedule variance percentage, schedule performance index, percent complete, percent spent, forecast at completion, to-complete-performance index (forecast), to-complete-performance index (baseline), improvement ratio (forecast), improvement ratio (baseline), variance at completion, and/or independent forecast among other possible calculations.

(See Oliver, col. 8, lines 21-29)

Neither information nor EV-related information are indications that a job is complete, contrary to the implication in the final Office Action. Furthermore, neither a cost variance, a cost variance percent, a cost performance index, a schedule variance, a schedule variance percentage, a schedule performance index, a percent complete, a percent spent, a forecast at completion, a to-complete-performance index (forecast), a to-complete-performance index (baseline), a improvement ratio (forecast), a improvement ratio (baseline), a variance at completion, nor an independent forecast among other possible calculations is an indication that a job is complete, contrary to the implication in the final Office Action.

In particular, a percent complete is an indicator that a job has *not* been completed, rather than an indication that a job is complete, contrary to the implication in the final Office Action. Similarly, both a to-complete-performance index (forecast) and a to-complete-performance index (baseline) are indicators that a job has *not* been completed, rather than an indication that a job is complete, contrary to the implication in the final Office Action.

Oliver, in fact, has not the remotest interest in jobs after they have been completed. Oliver, to the contrary, seeks to provide project management systems and methods, as described at column 1, lines 5 and 6. Oliver defines project management, in turn, at column 1, lines 16-20 as referring to,

> managing the activities that lead to the successful completion of a project. Project management focuses on finite deadlines and objectives. A number of tools may be used to assist with project management and assessment.

Since Oliver is focused on those activities that *lead* to the successful completion of a project, Oliver pays no attention to activities after completion of a project, such as whether or not messages will be sent, contrary to the assertion in the final Office Action. Oliver, furthermore, is complete in itself. There is submitted to have been no reason at the time the invention was made to modify Oliver, as proposed in the final Office Action, since a generating a message, much less one with an entry space for a job completion date offer by the person assigned the job, would have served no purpose for Oliver.

This assertion that Oliver would not be interested in messages concerning job completion has even more relevance to the invention feature of a confirmation button activatable by the worker when the job is complete. Oliver would have no reason for providing such a button and, thus, any suggestion of a modification to Oliver to add such a button does not make sense..

Nakaoka, for its part, teaches away from the combination proposed in the final Office Action at column 1, lines 61-64, when he describes tasks in which "all work procedures are not yet decided at the time the task is started," as "task(s that) cannot receive the task support at all."

In particular, as described in Nakaoka at column 1, lines 53-60,

> However, of the tasks, there is a task having a form in which future task property and work procedure are determined based on the results of the work after a part of work on the task was executed since the task has been started. In particular, as a typical example of such task, there is known such a task in which the work contents and the work procedure following the work are planned as one of works in the task.

(See Nakaoka, col. 1, lines 53-60)

Determining the form that future task properties and work procedure will take based on the results of the work after a part of work on the task was executed since the task has been started, however, is exactly what Oliver is doing. As Oliver, for example, describes at column 1, lines 54-60,

> At periodic time intervals during the project, the actuals and baseline are compared to determine a variance from the plan and also to forecast anticipated completion dates and costs for all remaining work. The forecast is the predicted cost, e.g., effort hours, to be spent to complete the remainder of a work assignment, output, set of outputs, or the overall project.

Nakaoka, in particular, is all about building a consensus among all of the participants in a project, before the project is commenced. Nakaoka seeks to achieve support for every task from every participant. If the path a task will take is unclear at the outset, on the other hand, an eventuality with which Oliver is specifically designed to cope, consensus will never be reached, because the participants have no way of knowing to what they're giving their support.

It is submitted, therefore, that persons of ordinary skill in the art who read Oliver and Nakaoka for all they contained at the time the invention was made would have been deterred from modifying Oliver as proposed in the final Office Action, since Oliver is trying to forecast the cost, i.e. the effort hours necessary to complete the work remaining, while Nakaoka warns that the fact that "all work procedures are not yet decided at the time the task is started," means the "task(s) cannot receive the task support at all." The rejection is therefore unlawful, ought to be reversed and such is requested.

F. Conclusion

It is submitted that the prior art does not teach or suggest the various independently patentable features of the present inventions. It is also submitted that the references are not combinable. Reversal of the rejections is respectfully requested.

Respectfully submitted,

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(VIII) Claims Appendix

1. (currently amended) A message processing apparatus, comprising:

a message generation unit generating a job completion date message to which attached is an entry space for entering a completion date offer indicating a completion date a receiver of a group who has been assigned to the job desires to agree to place in the completion date offer entry space in the message;

an acquisition unit transmitting the job completion date messages to a plurality of receivers of the group and receiving each completion date offer that is entered by the receivers; and

a control unit causing a terminal device of the transmitter apparatus at the transmitter of the message to display the completion date offers of the receivers together with a decision result with respect to the completion date offers of the receivers.

2. (currently amended) The message processing apparatus according to claim 29, wherein the control unit causes the information indicating the ratio of the persons who have completed respectively assigned parts of the job to be displayed together with a title of the message in response to one of a display request of a user and on fulfilling predetermined conditions.

3. (currently amended) The message processing apparatus according to claim 29, wherein the control unit causes the terminal apparatus to display a completion state table comprising information indicating the ratio of the persons who have completed the respectively assigned parts of the job among all the plurality of receivers of the message doing the job and the title of the message.

4. (currently amended) The message processing apparatus according to claim 29, further comprising:

a message generation unit generating a message provided with a confirmation button by which each receiver of the message can individually inform that the receiver has completed the assigned part of the job to the transmitter of the message; and

wherein the control unit judges when the confirmation button is activated by a receiver of the message that the receiver has completed the assigned part of the job and counts the number of receivers who have activated the confirmation button for causing the terminal apparatus to display the information indicating the ratio of the persons having completed the assigned parts of the job.

5. (canceled)

6. (currently amended) The message processing apparatus according to claim 29, wherein the control unit causes the terminal apparatus at the transmitter of the message or at the receiver of the message to mandatory display the information indicating the ratio of the persons who have completed the respectively assigned parts of the job among all the plurality of receivers of the message doing the job that is associated with the message.

7. (currently amended) The message processing apparatus according to claim 29, wherein the control unit causes the terminal apparatus to display the information indicating the ratio of the persons who have completed the assigned parts of the job when one of a specified date for completing is a current and when the ratio of the persons who have completed the assigned parts of job reaches a preassigned value.

8. (currently amended) The message processing apparatus according to claim 29, wherein the control unit causes the terminal apparatus to display the information indicating the ratio of the persons who have completed the assigned parts of the job on a day specified by a transmitter of the message in advance.

9. - 14. (canceled)

15. (currently amended) A message processing system constituted from a plurality of terminal apparatuses each having a capability of displaying a message and a message processing apparatus capable of processing the message, wherein the message processing system comprises:

a message generation unit generating a job completion date message to which attached is an entry space for entering a completion date offer indicating a completion date a receiver of a group who has been assigned to the job desires to agree to place in the completion date offer entry space in the message;

an acquisition unit transmitting the job completion date messages to a plurality of receivers and receiving each completion date offer entered by the receivers, and

a control unit causing one of the the terminal apparatuses to display the completion date offers of the receivers together with a decision result with respect to the completion date offers of the receivers .

16. (currently amended) The message processing system according to claim 15, wherein

the control unit causes the apparatus to display an offered term table comprising the name of a receiver, the offered new date term of a receiver, an approved or rejected status of the transmitter for the offer.

17. (currently amended) A method of managing messages, comprising:

generating a job completion date message to which attached is an entry space for entering a completion date offer indicating a completion date a receiver of a group who has been assigned to the job desires to agree to place in the completion date offer entry space in the message;

transmitting the job completion date messages to a plurality of receivers of the group and receiving each completion date offer that is entered by the receivers; and

causing a terminal device of the transmitter apparatus at the transmitter of the message to display the completion date offers of the receivers together with a decision result with respect to the completion date offers of the receivers

.

18. (currently amended) The method of managing messages according to claim 17, further comprises causing the apparatus to display an offered term table comprising the name of a receiver, a new date offered term of a receiver, an approved or rejected status of the transmitter for the offer.

19. - 20. (canceled)

21. (currently amended) A computer-readable storage medium for controlling a computer and storing a message management program comprising:

a first program part for generating a job completion date message to which attached is an entry space for entering a completion date offer indicating a completion date a receiver of a group who has been assigned to the job desires to agree to place in the completion date offer entry space in the message;

a second program part for transmitting the job completion date messages to a plurality of receivers of the group and receiving each completion date offer that is entered by the receivers; and

a third program part for causing a terminal device of the transmitter apparatus at the transmitter of the message to display the completion date offers of the receivers together with a decision result with respect to the completion date offers of the receivers

22. (currently amended) A message processing apparatus, comprising:

a message generation unit generating a message to which attached is an entry space for entering a completion date offer indicating a completion date each receiver desires to agree in place of the completion date stated in the message; and

a control unit causing a terminal apparatus to display in a table form the title of the message, names of a plurality of the receivers, the completion dates entered into the entry spaces attached to the message by the plurality of the receivers respectively together with a decision result with respect to the completion date offers of the receivers.

23. (currently amended) The message processing apparatus according to claim 22, wherein the control unit causing the apparatus to display an offered term table comprising the name of a receiver, a new date offered term of a receiver, an approved or rejected status of the transmitter for the offer.

24. - 28. (canceled)

29. (new) The message processing apparatus of claim 1, further comprising:

an acquisition unit transmitting a job completion message and receiving a job completion reply from persons in a group who have been assigned part of a job and obtaining information indicating whether each of a plurality of receivers of a message, who in a group do a job associated with the message, has completed an assigned part of the job; and

a control unit, based on the information obtained by the acquisition unit, causing a terminal apparatus to display information indicating a ratio of persons who have received the message and completed the assigned parts of the job to all the persons who have received the message and have been assigned the parts of the job.

IX. EVIDENCE APPENDIX

Not applicable.

X. RELATED PROCEEDINGS APPENDIX

Not applicable.